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June 1, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Statement ET Docket No. 94-124

Dear Mr. Caton:

On May 31, 1995, the undersigned, counsel to Orion Satellite Corporation ("Orion"), Dr. Denis J. Curtin, Senior Vice President and General Manager of Satellite Operations, and Dr. Robert Sorbello, Director of Systems Engineering, of Orion, participated in three separate meetings with: (1) Mr. Donald Gips and Mr. Gregory Rosston of the Office of Plans and Policy; (2) Ms. Regina Keeney, Chief, Ms. Susan Magnotti and Mr. Larry Atlas of the Wireless Telecommunications Bureau; and (3) Mr. Scott Blake Harris, Chief of the International Bureau.

The Orion representatives discussed the positions set forth in the attached May 26, 1995, letter from Orion's President and Chief Executive Officer, W. Neil Bauer, to FCC Chairman Reed Hundt.

Kindly direct any questions concerning this matter to the undersigned.

Sincerely,

Julian L. Shepard

Attachment
cc: Mr. Scott Harris
Ms. Regina Keeney
Mr. Donald Gips

ORION
NETWORK SYSTEMS, INC

May 26, 1995

Honorable Reed E. Hundt
Chairman
Federal Communications Commission
Room 814
1919 M Street, N.W.
Washington, D.C. 20554

Re: ET Docket No. 94-124

Dear Chairman Hundt:

This letter concerns the ongoing and important dispute between global satellite service providers such as Orion Atlantic and proponents of local multipoint distribution services (LMDS) over the allocation of spectrum in the 27.5 to 30.0 GHz band.

In 1971, with U.S. support, the 28 GHz band (27.5 to 30 GHz) was allocated worldwide to the fixed satellite service (FSS) for space-to-earth communications. Because FSS systems are global in scope, they require global, paired spectrum allocations for earth-to-space (uplink) and space-to-earth-(downlink) communications. Since 1971, several FSS systems have been developed that utilize this band for uplinks, and many other proposals are now pending at the FCC.

It is our understanding that the Commission will soon consider a proposal to reallocate a substantial part of the 28 GHz band for LMDS. This reallocation proposal is being advanced, despite the unequivocal findings of a Negotiated Rule Making Committee convened by the Commission last year indicating that sharing is not feasible between FSS and LMDS. That Committee found that detrimental interference would be received by LMDS receivers in close proximity to satellite uplinks.

Very recently, Bellcore submitted to the FCC a "study" which purports to demonstrate that limited sharing of the 28 GHz band between LMDS and satellite services is feasible. That submission, made available just days ago, is under review by various technical experts. The Commission should reserve judgment on the Bellcore submission until the study

has received adequate scrutiny by the Commission's staff, informed by comments from the satellite industry and other sources.

In the meantime, I want to note for the record that the Bellcore submission fails to take account of the variability in FSS system designs by wholly ignoring the design considerations for systems other than Teledesic's system and the Hughes Spaceway system. The Bellcore submission is built upon assumptions that do not consider many other satellite system designs—systems that are currently under consideration by the FCC. Moreover, Orion's system design may well differ from the two pending proposals on which Bellcore's evaluation solely has been based.

While the Commission inevitably is forced to make many difficult choices among competing demands for spectrum, in this situation a win-win solution is possible. Spectrum in the 40.5 to 42.5 GHz band is suitable for LMDS use, as indicated by at least one leading manufacturer of LMDS equipment. On the other hand, alternative allocations for FSS are much more complicated, requiring compatibility between downlink and uplink frequencies and extensive international coordination. For this reason, maximum use of the 40 GHz band should be made for accommodation of LMDS, a service that is entirely domestic in nature.

Orion and other U.S. satellite service providers promise to bring new innovative domestic and international services of the highest quality to American businesses and consumers, and permit the social and economic benefits of the GII to reach portions of the United States that otherwise will not have access or advanced information capabilities through other technologies. In this regard, the 28 GHz band is a crucial resource for Orion's future. Orion intends to utilize this band for both earth-to-space and inter-satellite communications.

For these reasons, we ask that you honor the findings of the FCC's Negotiated Rule Making Committee that sharing is not feasible between LMDS and satellite services in the 28 GHz band, and refrain from premature reliance on the Bellcore study. Any proposal to reallocate portions of the spectrum in the 28 GHz band for LMDS should ensure that adequate spectrum resources remain available in the band for domestic FSS use by companies such as Orion.

Sincerely,

W. Neil Bauer

W. Neil Bauer
President and Chief Executive Officer